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09/682,624	09/28/2001	Joan Clayton	1284-001	2281

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EXAMINER

BROWN, MICHAEL A

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 08/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/682,624

Applicant(s)

Joan Clayton

Examiner

Michael Brown

Group Art Unit

3264

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-19 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-19 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

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## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 1-19 are objected to because of the following informalities: In claims 1 and 19, in the preamble, the medical tube should be recited as adapted to be attached to a patient.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-18 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is a lack of antecedent basis in the specification for the pocket positioned within the belt.

4. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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It is not clear how the protective pocket is within the band. It could be interpreted that the pocket is inside of the material of the band or that the pocket is located between the ends of the band.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-2, 6, 9-11 and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Campbell.

Campbell discloses in figures 1-2 an abdominal tube band for holding medical tubes attached to a patient comprising a substantially rectangular fabric band 14, a protective pocket 20 and fastening means (11, 12). The band is made of sheeting material (band 14 is made from a sheet of material that is a fabric), the band is disposable, reusable and cleanable.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3-5, 7-8, 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Cambell in view of Helmer.

Cambell discloses in figures 1-2 an abdominal tube band, substantially as claimed.

However, Campbell does not disclose the fastening means being ties, the band being made of a breathable material, cotton, canvas, knitted or the pocket being water resistant or water proof.

Helmer teaches in figure 1 a rectangular fabric band 20 that is made of a breathable material (cotton), cotton, canvas or knitted (col. 11, lines 45-50). The pocket is made of a waterproof, water resistant material (col. 11, lines 64-66). Helmer, also teaches ties (col 11, lines 59-61) that can be used to hold the rectangular fabric around the user's waist. It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the fabric band as disclosed by Campbell could be fabricated of a breathable material to allow air and sweat to pass through the fabric. The cotton, canvas and knitted material would be durable and comfortable to the wearer. The pocket could be waterproof to prevent fluids from reaching the medical tubes inside of pocket. The ties could be substituted for the hook and loop material to fasten the fabric band around the user's waist. The pocket including a coated fabric is also taught by Helmer (col. 11, lines 68- col. 18, lines 1-2), the decoration or printed material is coated onto the fabric. The pocket as taught by Helmer can be made of plastic (col. 8, lines 1-4). Thus, it is inherent to make the pocket out of polyethylene which is a specific type of plastic. The plastic material of the pocket would provide a liner that is synthetic.

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*Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Turner, Russo and Simpson, each discloses a medical tube holder. Although each of these references is pertinent prior art, neither was used to reject any claims, in the first office action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brown whose telephone number is (703) 308-2682.

M. Brown  
August 8, 2003

A handwritten signature in black ink, appearing to read "Michael A. Brown", with a long horizontal flourish extending to the right.

Michael A. Brown  
Primary Examiner